

H-3101-1 - ISSUANCE OF LEASES

I. Adjudication-Related Procedures and Requirements

Keywords

A. Availability of Lands for Oil and Gas Leasing

1. Lands Eligible and Available for Leasing.

Lands eligible for leasing include those identified in 43 CFR 3100.0-3 as being subject to leasing, i.e., lands considered not to be excluded from leasing by a statutory or regulatory prohibition. Eligible lands are available for leasing when all statutory requirements and reviews, including compliance with the National Environmental Policy Act (NEPA) of 1970, have been met. The BLM objective is to place reliance on land-use planning and associated NEPA analyses, conducted in accordance with the supplemental program guidance for energy and mineral resources (see Manual Section 1624.2 and Handbook 1624-1), to support oil and gas leasing decisions.

LANDS ELIGIBLE
AND AVAILABLE
FOR LEASING

2. Lands Not Available for Leasing. Certain

lands are not available for oil and gas leasing by statutory, regulatory, and policy prohibition. These include the following (see also 43 CFR 3100.0-3(a) and (b)).

LANDS NOT
AVAILABLE
FOR LEASING

a. Incorporated Cities, Towns, and Villages.

Lands within incorporated cities, towns, and villages are not subject to leasing under the mineral leasing laws, except certain acquired lands within the cities of Corpus Christi, Texas, and Port Hueneme, California. In accordance with Public Law 98-529, enacted October 19, 1984, acquired lands within these two cities are available for oil and gas leasing with the consent of the city.

INCORPORATED
AREAS

b. Units of the National Park System. It

is the policy of the Department of the Interior that unless Congress has specifically declared a unit of the National Park System to be open to leasing (e.g., see 43 CFR 3109.2) or unless drainage of oil or gas is occurring, leasing shall not be considered. See Section III, below, for a discussion of the MOU between BLM and the National Park Service.

NATIONAL PARK
SYSTEM UNITS

c. Indian Reservations. Lands within

Indian Reservations and lands under the jurisdiction of the Bureau of Indian Affairs shall be leased only in accordance with the regulations contained in 25 CFR Part 200.

INDIAN
LANDS

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Keywords

d. Naval Petroleum and Oil Shale Reserves and the National Petroleum Reserve in Alaska. The Naval Petroleum Reserves and Oil Shale Reserves are under the jurisdiction of the Department of Energy.

NAVAL PETROLEUM/
OIL SHALE
RESERVES

e. National Petroleum Reserve in Alaska. The National Petroleum Reserve in Alaska (NPR-A), under the jurisdiction of the BLM, shall be leased for oil and gas only in accordance with the regulations in 43 CFR Part 3130, not under the Mineral Leasing Act of 1920.

NATIONAL
PETROLEUM
RESERVE IN
ALASKA

f. Arctic National Wildlife Refuge. The Arctic National Wildlife Refuge shall not be available for oil and gas leasing until legislation authorizing leasing is enacted.

ARCTIC NATIONAL
WILDLIFE REFUGE

g. Central Arctic Area. In accordance with the provisions of the Alaska National Interest Lands Conservation Act (ANILCA), Section 1001, lands under the jurisdiction of the BLM located north of 68 degrees North Latitude and east of the western boundary of the NPR-A are not available for oil and gas leasing until further legislation is enacted authorizing leasing.

CENTRAL ARCTIC
AREA - ANILCA
SECTION 1001
AREA

h. Designated Wilderness Areas. Lands within the National Wilderness Preservation System, subject to valid existing rights under Section 4(d)(3) of the Wilderness Act established before midnight December 31, 1983, are not available for oil and gas leasing unless otherwise provided by law.

WILDERNESS
AREAS

i. Wilderness Study Areas. The Federal Onshore Oil and Gas Leasing Reform Act (Reform Act) prohibited leasing in: (1) lands recommended for wilderness allocation by the surface management agency; (2) lands within BLM wilderness study areas; (3) lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area (e.g., certain areas within Utah); and (4) lands within areas allocated for wilderness or further planning in Executive Communication 1504, 96th Congress, unless such lands are allocated to uses other than wilderness by a land-use plan/resource management plan or have been released to uses other than wilderness by an Act of Congress. Lease offers filed prior to enactment of the Reform Act that are in such wilderness study areas are not to be rejected, but are to be held without further action pending Congressional action on the wilderness study area.

WILDERNESS
STUDY AREAS

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Keywordsj. National Wildlife Refuge System Lands.

In accordance with Section 107 of the Fiscal Year 1984 Continuing Appropriations Act, no further leasing of National Wildlife Refuge lands, including coordination lands, within the lower 48 States shall be allowed until regulations are developed and an environmental impact statement is completed. (See Manual Section 3101.5.)

NATIONAL
WILDLIFE
REFUGES

k. Wild and Scenic Rivers.

The Wild and Scenic Rivers Act withdraws areas designated as National Wild and Scenic Rivers from mineral leasing. Even though Section 9(a) of the Act states that those segments classified as "scenic" or "recreation" are open to entry under the mining and mineral leasing laws subject to the rules and regulations of the Secretary, no regulations have been promulgated to allow leasing in such areas.

WILD AND SCENIC
RIVERS

3. Effects of Injunction Orders/Litigation.

Lands which are the subject of injunction orders or court decisions affecting leasing which are under appeal cannot be leased until final decisions are rendered by the court, unless other specific direction is provided by the court. Potential lessees (competitive bidders or noncompetitive lease offerors) are to be notified that the oil and gas parcels will be held in suspension until resolution of the litigation. When existing leases are placed in a suspension, see Handbook 3103-1 for lease suspension procedures.

EFFECTS OF
INJUNCTION
ORDERS/COURT
DECISIONS

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B. Lands Withdrawn and Segregated Public Domain Lands Keywords

1. Lands Withdrawn and Set Aside for Specific Purposes. Lands withdrawn and set aside for specific purposes may be leased, except where lands are excluded from mineral leasing under the mineral leasing laws or where the Executive Order or Public Land Order expressly excludes the lands from operation of the mineral leasing laws. If the withdrawal precludes oil and gas leasing, any noncompetitive offers received must be rejected.

LANDS WITHDRAWN
AND SET ASIDE
FOR SPECIFIC
PURPOSES

2. Lands Withdrawn for Use by Another Agency. Where lands are withdrawn for the use of another agency, that agency must be asked for its recommendations as to leasing, including stipulations needed to protect the land for the purposes for which it was withdrawn. However, for lands withdrawn for use by the Department of Defense (DOD), the BLM must obtain consent for leasing in accordance with the Engle Act (43 U.S.C. 158). If the DOD does not concur with leasing, it needs to provide the rationale for such a determination. (See Section III.B.5, below, for further procedures concerning DOD lands.)

LANDS WITHDRAWN
FOR USE BY
ANOTHER AGENCY

3. Withdrawals Not Closed to Leasing. Some withdrawals which are not closed to oil and gas leasing are:

WITHDRAWALS
NOT CLOSED
TO LEASING

- a. Withdrawals for grazing districts.
- b. Power site withdrawals.
- c. Reclamation withdrawals.
- d. National Forest withdrawals.
- e. Public Water withdrawals.

f. Oil Shale withdrawals. See Manual Section 3101.13D1 for the oil shale stipulation to be used only for the specific patented oil shale claims area in Colorado affected by the TOSCO court settlement.

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C. Recreation and Public Purposes Lands

All lands within recreation and public purposes (RP&P) leases and patents are available for oil and gas leasing subject to conditions and stipulations deemed appropriate by the authorized officer. Such lands are to be treated as split estate lands. Process noncompetitive lease offers and competitive sale parcels using the procedures set forth in Handbooks 3110-1 and 3120-1, respectively. If the RP&P lands being leased were patented to a State or political subdivision, agency, or instrumentality thereof, or to a college or any other educational corporation or association, or to a charitable or religious corporation or association, with a reservation of the oil and gas to the United States, refer to Section I.E, below.

Keywords

RECREATION
AND PUBLIC
PURPOSES LANDS

RP&P LANDS
PATENTED TO A
STATE OR
CHARITABLE
ORGANIZATION

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D. Other Patented Lands With Mineral Estates
Reserved by Statutes

Keywords

Reserved mineral estates in patented lands are available for lease under the applicable leasing regulations (see 43 CFR 3000.8). Such mineral estates include, but are not limited to, those that have been reserved under the Act of July 1914 and the Stockraising Homestead Act of 1916, the Small Tract Act of June 1, 1938, as amended, and the Federal Land Policy and Management Act of 1976.

Noncompetitive oil and gas lease offers and competitive sale parcels for such lands are to be processed following the steps set forth in Handbooks 3110-1 and 3120-1, respectively. If access for lease development is denied, consult with the Regional or Field Solicitor for the appropriate action to be taken.

OTHER PATENTED
LANDS WITH
MINERAL ESTATES
RESERVED BY
STATUTE

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E. Federally-Owned Minerals Underlying Surface Owned by a State or Charitable Organization

Keywords

Under the Recreation and Public Purposes Act, Federal lands are patented to States, counties, cities, schools, churches, charitable organizations, etc. Where the United States has conveyed title or control of the surface of lands to such an entity, written notification of a lease offer/competitive lease parcel shall be sent by certified mail to the entity. The entity will have up to 90 days to suggest lease stipulations considered necessary to protect the surface improvements or uses. The facts submitted by the entity must be considered and each case decided on its merits. The BLM Field Office fluid minerals operations staff must review any objections to leasing or stipulations provided by the entity, and report to the State Office Adjudication whether to withhold the lands from leasing, or whether to incorporate the stipulations into a lease or develop alternative stipulations. The opposition to leasing or the need for restrictive stipulations expressed by the party controlling the surface affords no legal basis or authority for the BLM to refuse to issue a lease or to issue the lease with the requested restrictive stipulations. The final determination to issue a lease and with what stipulations depends on whether the interest of the United States would best be served by issuance of the lease.

FEDERAL MINERALS
UNDER STATE OR
CHARITABLE
ORGANIZATION
SURFACE

Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
Adjudication	1.	Confirm if the patentee meets the criteria set forth in 43 CFR 3101.8.	CONFIRM TYPE OF PATENT
	2.	Prepare and send a letter to the patentee requesting its report on the leasing request.	REQUEST PATENTEE REPORT
	3.	Review the report received from the patentee for concurrence to leasing and any stipulations requested.	REVIEW PATENTEE RESPONSE
	4.	If concurrence to leasing is received, and additional stipulations are requested by the patentee, request the Field Office fluid minerals operations staff to review the stipulations submitted by the patentee.	REQUEST FIELD OPERATIONS STAFF REVIEW

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Responsible Official	Step	Action	Keywords
	5.	If a nonconcurrence to leasing is received, send the patentee's objection to the Field Office fluid minerals operations staff for a determination whether it is appropriate to withhold the lands from leasing.	
Field Office Operations	6.	Review the patentee's objection to leasing and determine if the lands need to be withdrawn from leasing and/or the RMP needs to be amended to address no leasing in the tract.	PATENTEE OBJECTION TO LEASING REVIEWED BY FIELD OFFICE
	7.	If the patentee indicates stipulations so restrictive that the lands could not be developed independently or become part of a drilling unit, consider the facts supporting the stipulations requested and decide whether to apply them, or whether to develop alternative stipulations.	RESTRICTIVE STIPULATIONS OF PATENTEE REVIEWED BY FIELD OFFICE
	8.	Forward the Field Office's final recommendations to the State Office Adjudication.	REPORT TO ADJUDICATION
Adjudication	9.	Process the parcel for competitive lease sale with the appropriate stipulations and complete the leasing actions in accordance with the Handbooks 3120-1 (competitive lease) and 3110-1 (noncompetitive offer).	PROCESS LEASE ACTION
	10.	If the final recommendation was made to not lease the lands, reject any noncompetitive lease offer that was filed.	REJECT OFFER

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F. Lands Covered by Application to Close Lands to Mineral Leasing and Lands Within a Proposed Withdrawal or Exchange

Keywords

1. Lands Covered by Application to Close Lands to Mineral Leasing. Suspend action on any noncompetitive offers, sale parcels, and expressions of interest for lands affected by the pending application to close the lands to oil and gas leasing. Notify any offeror, bidder, or party making the expression of interest of the suspension action taken by the BLM. If the segregative effect to close the lands to mineral leasing becomes final, any oil and gas offers must be rejected.

SUSPEND LEASE
ACTIONS ON
LANDS PENDING
APPLICATION
FOR CLOSURE TO
MINERAL LEASING

2. Lands Within a Proposed Federal Withdrawal. Suspend action on noncompetitive offers, sale parcels, and expressions of interest for lands included in a pending Federal withdrawal area until final action has been taken on the withdrawal application. Notify any offeror, bidder, or party making the expression of interest of the suspension action taken by the BLM.

SUSPEND LEASE
ACTIONS ON
PROPOSED
WITHDRAWAL AREAS

3. Lands Proposed for Exchange. For lands that have been proposed for exchange with another Federal agency, State, or private party, process sale parcels, noncompetitive offers, and expressions of interest on the involved lands up to the point where a Notice of Realty Action (NORA) is published in the Federal Register. When the NORA is published, withhold issuance of oil and gas leases because mineral leasing is considered in conflict with the exchange proposal. When the U. S. Forest Service (FS) is pursuing an exchange of certain lands without a formal withdrawal, any oil and gas noncompetitive offers or competitive sale parcels may fail to receive the required FS consent to lease due to the FS efforts to complete the land exchange.

PROCESS LEASE
ACTIONS UNTIL
NORA PUBLISHED
FOR EXCHANGE
ACTION

4. Exchanged Lands With Federal Leases. When lands and/or minerals are transferred out of the ownership of the United States through exchange, and a Federal lease exists on the lands, the patent should provide that the oil and gas rights in any outstanding lease at the time of exchange will not be conveyed until termination, expiration, or relinquishment of the lease. When the lease has ceased to exist, the oil and gas rights will automatically vest with the patentee, its successors, or assignees.

EXCHANGED LANDS
WITH FEDERAL
LEASES

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Keywords

5. Transfer of Administrative Jurisdiction From BLM to Another Federal Agency. Transfer of lands from the BLM to another Federal agency may be authorized by law, e.g., from the BLM to the Bureau of Indian Affairs in trust for an Indian tribe. When the BLM transfers the jurisdiction of the lands, including the mineral estate, the oil and gas lease also is transferred to the other Federal agency. When another agency becomes the administrator of the oil and gas lease, close the BLM lease case file.

TRANSFER OF
JURISDICTION
FROM BLM TO
ANOTHER FEDERAL
AGENCY

ALMRS ENTRY: Enter Action Date (MANDATORY ACTION CODE):
Date of transfer of jurisdiction or administration of
lease from BLM to another agency; DE 1775 Action Code
169/DE 1920 Action Code 466; Action Remarks: TO _____
Also enter DE 1775/2910 Action Code 970 to close case, and
remove DE 1775/2910 Action Code 763 (Expires).

AUTOMATED
NOTATION

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G. Issuance of LeasesKeywords

Specific adjudication procedures for processing oil and gas noncompetitive and competitive leases are provided in Handbooks 3110-1 and 3120-1, respectively. Procedures for processing oil and gas right-of-way lease applications in accordance with the Act of May 21, 1930, are addressed in Handbook 3109-1.

ISSUANCE
OF LEASES

1. Lease Form. All Federal oil and gas leases shall be issued on the current BLM-approved lease form (Form 3100-11; see Illustration 1). Lease forms that have been deemed obsolete through publication of a notice in the Federal Register shall not be acceptable for the filing of a noncompetitive lease offer subsequent to the effective date stated in the published notice. Currently, all lease forms prior to the June 1988 edition have been deemed obsolete. (In March 1984, Form 3100-11 was created as a consolidation of the earlier public domain, acquired, and future interest Forms 3110-1, 3110-2, 3110-3, 3120-1, 3120-7, 3130-4, 3130-5, and 3130-7.) The current lease form was revised in October 1992 to reflect the change in the primary lease term for competitive leases established by the Energy Policy Act of October 24, 1992. The primary term of competitive leases is now identical to the primary term of noncompetitive leases, i.e., 10 years in duration. If a lease offer is filed on a lease form that subsequently has been deemed obsolete by a Federal Register publication prior to issuance of the lease, the signature of the authorized officer shall be on the new edition of the lease form, with signature of the offeror also required on the new edition of the lease form. The Form 3100-11 may be periodically updated and reprinted with certain clarifications or revisions, however, the previous edition of the lease form may not necessarily be deemed obsolete, as occurred with the October 1992 revision. In such a case, State Offices may continue to use the previous edition of the lease form until the new edition is available and distributed by the BLM Printed Materials Distribution Section (BC-650B). When the new edition of the lease form is received by BC-650B, it destroys the old forms and distributes the revised forms automatically. The BLM State Offices are expected to manage their stock and the use and distribution of revised lease forms in the same manner. If a noncompetitive lease offer is submitted on the June 1988 edition of the lease form, the lease form is acceptable since the June 1988 form has not been deemed obsolete by a Federal Register notice publication.

LEASE FORM

FORMS DEEMED
OBSOLETE
NOT ACCEPTABLE

LEASE FORM
UPDATES -
DISTRIBUTION
AND USE

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H. Acreage Limitations

1. Requirements. All potential lessees must certify that they hold no more than 246,080 acres of oil and gas leases on public domain lands and 246,080 acres of oil and gas leases on acquired lands minerals in any one geographic State, except Alaska, at any one time. No more than 200,000 acres of each type of land within a State may be held under option. In Alaska, 300,000 acres of each type of land may be held in each of the two leasing districts, of which no more than 200,000 acres within each leasing district may be held under option. The acreage in public domain mineral leases is charged separately from acquired lands mineral leases since the Mineral Leasing Act for Acquired Lands of 1947 is a separate leasing authority from the initial leasing authority for public domain minerals, i.e., the Mineral Leasing Act of 1920. The signature of the applicant on the lease form automatically provides certification that the potential lessee does not exceed the statutory acreage limitation, as does signature on the BLM-approved record title assignment and operating rights transfer forms (Forms 3000-3 and 3000-3a) and the BLM-approved bid form (Form 3000-2).

No offer or application for a noncompetitive lease, or competitive lease bid, is charged against the acreage limitation until a lease is issued. Options on lease offers, applications, or bids are not chargeable. However, options on leases are chargeable and are treated as leases in that they are exempt from acreage chargeability if the lease is unitized or within a cooperative or drilling plan or is in a development contract.

Acreage held in leases issued under the Act of May 21, 1930, are not chargeable since such leases are not subject to the acreage limitation provisions of the Mineral Leasing Act of 1920.

Acreage in a future interest lease does not count against the acreage limitation until the mineral interest vests in the United States. Prior to that date, the acreage in such a lease is not chargeable.

KeywordsACREAGE
LIMITATIONSMAXIMUM ACREAGE
LIMITATION FOR
PUBLIC DOMAIN
SEPARATE FROM
ACQUIRED LAND
LEASE ACREAGE
LIMITATIONACREAGE
CHARGEABILITYLEASE OFFERS
NOT CHARGEABLE1930 ACT LEASES
NOT CHARGEABLEFUTURE INTEREST
LEASE ACREAGE NOT
CHARGEABLE UNTIL
MINERALS VEST IN
THE UNITED STATES

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Keywords

Fractional interest held by the United States in mineral lands is charged to a lessee as a proportionate share of the total. For example, if the United States owns 75 percent of the mineral interest in 320 acres contained in a lease, the lessee shall be charged with only 240 acres in that lease.

FRACTIONAL
INTEREST
CHARGEABILITY

A party holding an undivided interest in a lease, for example, 10 percent undivided interest, shall be chargeable for 10 percent of the acreage covered by the lease. For example, the party would be chargeable for 64 acres of a lease containing 640 acres.

UNDIVIDED
INTEREST
CHARGEABILITY

A stockholder who owns or controls more than 10 percent of the stock of a corporation has his/her share of the acreage computed based on the stockholder's proportionate share of the corporation's stock. For example, if an individual holds 1,000 chargeable acres directly and also holds 20 percent of the stock in the XYZ Oil Corporation, and the XYZ Corporation has 200,000 chargeable acres, the individual stockholder is charged with an additional 40,000 acres, for a total of 41,000 chargeable acres. The individual stockholder's chargeable acreage, however, is not to be included as part of the corporation's chargeable acreage.

STOCKHOLDER
ACREAGE
CHARGEABILITY

For a partnership, acreage is chargeable to the individual partners in proportion to the interest they hold in the partnership, but as a partnership they cannot exceed the maximum acreage limitation.

PARTNERSHIP
CHARGEABILITY

Parties holding only operating rights in leases, when the operating rights have been severed from record title ownership, shall be chargeable for that lease acreage held solely through operating rights interests. However, the acreage chargeable due to the operating rights holdings shall not exceed the total acreage contained in the lease.

SEVERED OPERATING
RIGHTS INTERESTS
IN ACREAGE
CHARGEABLE

Leases committed to an approved unit or cooperative plan and leases subject to an approved operating or drilling plan, or leases in a development contract, are not counted in acreage chargeability computations. Acreage eliminated from such a plan does again become chargeable. Acreage in any lease committed to a communitization agreement (CA) is chargeable.

ACREAGE
COMMITTED
TO UNIT NOT
CHARGEABLE

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Keywords

When a lease is committed to both a unit or cooperative plan and to a CA, the lease acreage shall not be chargeable. The commitment of the lease to the unit or cooperative plan dominates over the commitment of the lease to the CA. If the lease is eliminated from the unit or cooperative plan, and is not included in any other unit or cooperative plan but remains in the CA, the lease acreage is chargeable.

COMMITMENT TO
UNIT PLAN
DOMINATES OVER
COMMITMENT TO CA

At any time, the authorized officer may issue a decision that requires a lessee or operator to file a statement with the BLM State Office indicating the leases held as of a specified date in a geographic State by the lease serial number and the date each lease was issued.

ACREAGE
SHOWING
REQUIRED

2. Excess Acreage. When a lease is eliminated in whole or in part due to contraction or termination of a unit or cooperative plan, or operating, drilling or development contract, the acreage is again chargeable to the lessee's acreage limitation. When excess acreage results from such an action, issue a decision advising the lessee that 90 days are allowed from the effective date of the lease's elimination from the plan or from the date the decision is received, whichever is later, to divest the excess acreage and to file proof of the divestiture with the BLM State Office (see Illustration 2).

EXCESS ACREAGE
DUE TO PARTIAL
OR TOTAL
ELIMINATION
FROM UNIT

When, as a result of a merger or purchase of the controlling interest in a corporation, a corporation or other entity controls more than the allowed acreage, issue a decision informing the lessee that 180 days are allowed from the date of the merger or purchase within which to divest the excess acreage (see Illustration 3).

EXCESS ACREAGE
DUE TO MERGER

If additional time is required by the lessee to complete the divestiture, the lessee must submit a letter of petition to the proper BLM office requesting additional time, and providing a complete justification for the additional time needed. The petition must be received prior to the end of the 90- or 180-day period.

ADDITIONAL TIME
ALLOWED FOR
DIVESTITURE

If the entity or person does not relinquish the excess acreage holdings within the time allowed, the excess acreage that is in violation of the acreage limitations is cancelled by the BLM in the inverse order of acquisition of the lease or interests therein.

CANCELLATION
OF EXCESS
ACREAGE

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I. Joinder Evidence for Leases Issued for Lands
Within Units and Communitization Agreements

Keywords

Prior to issuance of a lease for lands within an approved unit or cooperative plan or within a CA, the potential lessee is required to furnish evidence of joining the unit or CA. Joinder involves the participation of the lease in the development and operations of the lands within the boundary of the CA or unit or cooperative plan. Joinder of the lease to a unit or cooperative agreement is required to ensure operations under the terms and provisions of the approved unit or cooperative agreement and the unit operating agreement. Operators normally cannot operate independently in a Federal CA, nor in a unit or cooperative agreement.

JOINDER EVIDENCE
REQUIRED

Upon receipt of acceptable joinder evidence, the lease is issued subject to the unit or CA. The effective date of commitment of a new lease to the unit or CA is the effective date of the lease. A notation is made on the face of the lease case file that the lease is committed to the unit or CA. (See Handbook 3105-1.)

If the potential lessee is unable to join the unit, the potential lessee must submit a letter from the unit operator stating that there is no objection to lease issuance joinder. However, the BLM Field Office fluid mineral operations staff must review the facts concerning the failure to obtain joinder and determine that lease issuance without unit joinder is acceptable.

JOINDER
NOT ABLE TO
BE OBTAINED

ALMRS Entry: Enter Action Date: Date applicant shows sufficient reason why joinder not required; DE 1775 Action Code 689/DE 2910 Action Code 908; Action Remarks: Serial number of unit.

AUTOMATED
NOTATION

If a noncompetitive offer includes lands both inside and outside an approved unit agreement boundary, the nonunitized lands shall be segregated into a separate lease parcel prior to lease issuance. (See Handbook 3105-1, Section I.B, and Handbooks 3110-1 and 3120-1.)

SEGREGATE UNIT
LANDS IN
NONCOMPETITIVE
LEASE OFFER

Occasionally, during the presale parcel preparation period before a competitive lease sale is held, or before lease issuance, some of the lands in a parcel as originally configured will be determined to be within an approved unit or cooperative plan. In such situations, if there is insufficient time to separate the lands into separate parcels and provide notice of the redefined parcels with their changed acreage before the oral auction, the lease parcel shall be segregated just prior to the time of lease issuance with issuance of two separate leases.

SEGREGATE UNIT
LANDS IN
COMPETITIVE
PARCEL PRIOR TO
LEASE ISSUANCE

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Lease Modification

A lease may need to be modified after issuance for a variety of reasons. For example, the legal land description (LLD) may change when unsurveyed lands are surveyed into an approved protracted or public survey. The LLD and acreage of a lease also may change when a resurvey is completed. The LLD and acreage of a lease that is changed due to a resurvey shall be effective the first anniversary date following lessee notification of the changes when the lease is in a nonproducing status. Lessee notification, ideally, is to occur immediately after the official approval and filing of the changed plat. Any increase in the rental resulting from the acreage increase due to the resurvey is to be collected beginning the next anniversary date following lessee notification. However, for producing leases committed to an approved unit or cooperative plan or to a CA, upon the official filing of the revised plat, the lessees and operator are to be promptly notified of the acreage changes that occurred due to the resurvey and the allocation schedule is to be revised as of the effective date of the plat adjustment. The Interior Board of Land Appeals (the) has addressed several decisions concerning revisions to leases when a resurvey has occurred. Where a surveyed lot of public land riparian to a nonnavigable body of water is leased for oil and gas according to the plat of survey, the area covered by the original lot remains in the lease, even though part of the lot is thereafter covered by water, so long as the United States retains title to the riverbed. (See James L. Harden, Carl A. Nilsen, 15 the 187 (1974).) Where riparian public land has been completely eroded away by the actions of a navigable river, title is lost to the United States and, where said river is subsequently restored through accretion by the continued action of the river, title belongs to the riparian owner. (See David A. Provinse, 81 the 148 (1984).) (See also Handbook 3110-1, Section III.C. 5.)

A lease may be modified as a result of a newly enacted law or when a stipulation is no longer needed on the lease. See Section II of this Handbook for modification or waiver of lease stipulations.

KeywordsLEASE
MODIFICATIONMODIFICATION
OF LEASE DUE TO
RESURVEY

Responsible

Official Step Action

Keywords

Adjudication	1	Receive notification of the official approval and filing of the survey or resurvey.
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CHANGE IN LLD
AND/OR ACREAGE

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Responsible Official	Step	Action	Keywords
	2.	Request new plats or other appropriate records and identify all the leases that are affected.	
	3.	Request the lease case files from Docket.	
	4.	Issue a decision to the lessee (and operator for producing leases) advising of the change in land description, acreage, rental, etc., as appropriate (see Illustration 4).	
	5.	Prepare an accounting advice to the Minerals Management Service, Data Management Division (MMS-DMD) when the acreage and rental are required to be modified (see Illustration 5).	ACCOUNTING ADVICE
	6.	Send the case files for ALMRS Entry through Docket.	
ALMRS Entry	7.	Enter Action Date (MANDATORY ACTION CODE): Date of decision amending land description to conform to survey or resurvey; DE 1775 Action Code 209/DE 2910 Action Code 913; Action Remarks: EFF MM/DD/YY; (usually next anniversary date after decision notifying lessee of survey/resurvey).	AUTOMATED NOTATION
	8.	Modify LLD and acres in lease record in ALMRS, as applicable.	
	9.	For other types of lease modifications	
	9a.	Enter Action Date (MANDATORY ACTION CODE): Date of decision modifying lease; DE 1775 Action Code 607/DE 2910 Action Code 238; Action Remarks: Enter tie to General Remarks; General Remarks: Explain reason for lease modification.	
	9b.	Enter Action Date: Other appropriate mandatory action codes based on current lease data standards guidance.	

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Responsible Official	Step	Action	Keywords
	10.	Send the case files to Title Records through Docket.	
Title Records	11.	Make corrections to appropriate records.	RECORDS NOTATION
	12.	Place a copy of the new plat in the lease case file.	
Docket	13.	File case file on regular shelf.	

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K. Private Oil and Gas LeasesKeywords

Federal agencies, particularly the Forest Service and the Corps of Engineers, are continuously acquiring additional land, such as by exchange or purchase. In addition, some private leases are acquired through condemnation proceedings. (See Manual Section 3101.93.) A private oil and gas lease may cover all or part of the acquired land. When this occurs, the acquiring agency is to notify the BLM and provide a copy of the deed and lease. Section 2506 of the Energy Policy Act, effective October 24, 1992, requires that each department, agency, or other instrumentality of the United States that administers lands acquired by the Federal Government with existing mineral leases shall transfer the authority to administer such leases to the Department of the Interior. The Departmental Manual delegates the authority to administer these private leases to the BLM. The authority to collect all receipts due and payable to the United States also was transferred to the Department of the Interior, BLM.

PRIVATE
LEASESSMA MUST
TRANSFER
PRIVATE LEASE
TO BLM TO
ADMINISTER

The following procedures are to be used by the BLM to handle a private oil and gas lease. Upon expiration of a private lease, the lands are available for oil and gas lease in accordance with the Federal leasing regulations and must be processed through the competitive leasing process before being available for any noncompetitive oil and gas lease.

Responsible

Official	Step	Action	Keywords
Receiving Official	1.	Receive copies of the condemnation proceedings, memorandum, or transmittal letter from the acquiring agency with copies of the deed, leases, and any assignments (see Illustration 6). Date/time stamp the original copy and forward to Docket.	RECEIVE NOTIFICATION FROM ACQUIRING AGENCY
Docket	2.	Initiate a case file, serialize, and record in the log book in same manner as a presale noncompetitive lease offer. No filing fee or annual rental is required to be submitted. Forward to Adjudication.	PREPARE CASE FILE AND SERIALIZE
Adjudication	3.	Review the lease and/or assignment for the terms and conditions, and determine if all or part of the land acquired is affected. Forward the case file to Records/Status through Docket.	REVIEW LEASE AND/OR ASSIGNMENT DOCUMENTS

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Responsible Official	Step	Action	Keywords
Title Records	4.	Enter the lease on the records and check for lease offers or other conflicts. Put a copy of the updated plat and a complete status report in the case file.	RECORDS NOTATION
	5.	Forward for ALMRS Entry through Docket.	
ALMRS Entry	6.	Enter lease as Case Type 310112.	
	7	Enter Action Date (MANDATORY ACTION CODE): Date private lease came into Federal ownership and under BLM jurisdiction; DE 1775 Action Code 001/DE 2910 Action Code 387; Action Remarks: Optional.	AUTOMATED NOTATION
	8.	Print the serial register page and place in the case file. Forward the case file to Adjudication.	
Adjudication	9.	Check to determine if there is any production on the lease prior to advising the lessee of the Federal lease status.	CHECK FOR PRODUCTION ON LEASE
	10.	Notify the current lessee by certified notice that, due to the SMA's acquisition of the land, the United States is now the lessor. If the lease is in a nonproducing status, require the next rental payment to be made to the MMS-DMD (see Illustration 7). Provide the lessee with the proper MMS-DMD address for all inquiries concerning royalty payments, as applicable.	NOTIFY PRIVATE LESSEE OF FEDERAL LEASE SERIAL NUMBER
	11.	Send a courtesy copy of the certified notice to the acquiring agency and to the appropriate Field Office fluid mineral operations staff so that their records will show the BLM-assigned serial number.	COPY OF NOTICE TO SMA AND FIELD OFFICE OPERATIONS

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Responsible Official	Step	Action	Keywords
	12.	If the lease is in a nonproducing status, prepare an accounting advice in accordance with the terms of the private lease to transfer the lease account to the MMS-DMD (see Illustration 8).	ACCOUNTING ADVICE
	13.	If the lease is in a producing status, provide the MMS-DMD all the required information it needs to establish a royalty payor account.	NOTIFY MMS IF LEASE IN PRODUCING STATUS
	<p><u>NOTE:</u> Private leases are subject to the terms and conditions of the lease contract. Administration of future actions on the lease must be consistent with the terms of the lease as it existed when the lands were acquired by the United States (see Appendix 1).</p>		
	14.	Forward case file through Docket for ALMRS Entry.	
ALMRS Entry	15.	Enter Action Date (MANDATORY ACTION CODE): Date of decision notifying private lessee of BLM-assigned serial number; DE 1775 Action Code 176/DE 2910 Action Code 237.	AUTOMATED NOTATION
	16.	Enter Action Date (MANDATORY ACTION CODE): Effective date of lease when Federal Government became owner of mineral estate; DE 1775 Action Code 225/DE 2910 Action Code 868.	
	17.	Enter Action Date: All other appropriate mandatory action codes for Case Type 310112, Private Lease, using current data standards guidance (see Illustration 9).	
Docket	18.	File case file on regular shelf.	

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